

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

EZEKIEL DAVIS, )  
vs. Plaintiff, ) NO. CIV-16-0462-HE  
GEO GROUP CORRECTIONS, INC., )  
*et al.*, Defendants. )

## ORDER

Plaintiff Ezekiel Davis, a state prisoner appearing *pro se*, filed this § 1983 action, together with a motion seeking leave to proceed *in forma pauperis* (“*ifp*”). Consistent with 28 U.S.C. § 636(b)(1)(B), (C), the matter was referred for initial proceedings to Magistrate Judge Suzanne Mitchell. Applying the threes strikes rule of the Prison Litigation Reform Act,<sup>1</sup> she recommended that plaintiff’s motion be denied and the action be dismissed without prejudice to refiling, unless plaintiff paid the full \$400 filing fee withing twenty-one days from the date of any order adopting the Report and Recommendation. The court adopted the Report and Recommendation and advised plaintiff that the action would be dismissed without prejudice unless plaintiff paid the full \$400 filing fee within twenty-one (21) days.

Rather than pay the fee, plaintiff filed another complaint, application to proceed *ifp*, and motion for temporary restraining order. Plaintiff's newest complaint is identical to his first complaint, except plaintiff has added defendants and claims for retaliation and alleged violations of his rights under the First Amendment and the Religious Land Use and

<sup>1</sup> “Under PLRA, a prisoner is barred from bringing new civil cases or appeals in civil cases without the prepayment of filing fees if three prior civil cases or appeals in civil cases have been dismissed as frivolous, malicious, or for failure to state a claim.” Smith v. Veterans Admin., 636 F.3d 1306, 1309 (10th Cir. 2011).

Institutionalized Persons Act.

Due to plaintiff's failure to comply with the court's June 2, 2016, Order and pay the filing fee, this action is dismissed without prejudice.

**IT IS SO ORDERED.**

Dated this 10th day of August , 2016.



---

JOE HEATON  
CHIEF U.S. DISTRICT JUDGE